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#### REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

#### PENDING CLAIMS

Claims 1-7 and 10-42 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is presently interested. At entry of this paper, claims 1, 4-5, 7, 10-14, 16-18, 22-33, 44-45 and 47 will be elected claims which are pending for further consideration and examination in the application.

#### ALL REJECTIONS UNDER 35 USC '103

All 35 USC '103 rejections are respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by

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reference. Unrelated to any prior art rejection, ones of the rejected claims have now been canceled without prejudice or disclaimer, thus rendering this rejection of such claims obsolete at this time. Patentability of remaining ones of the rejected claims are supported by the following.

More particularly, Applicant's arrangements divide an area to be inspected into a cell portion and a non-cell portion according to a transferred layout data. A cell portion includes the same repeated patterns, and thus, if an image of a cell portion is picked up and stored beforehand, it is not necessary to detect a reference image for each defect area every time, and instead, it is possible to use the stored image as a reference image repeatedly. Such is advantageous because an inspection time can be shortened to a large extent as time to detect a reference image is not incurred.

Regarding distinguishing features/limitations, clarified claim 1, for example, states "wherein the inspection area setting unit divides the area to be inspected into at least the two partial inspection areas including a cell area and a non-cell area according to layout data, and the inspection condition setting unit sets conditions for the image acquiring system not to detect a reference image for each partial image in the cell area and to detect a reference image for each partial image in the non-cell area." Other ones of the presently-pending elected independent claims have similar features/limitations.

None of the applied references (taken individually, or in combination) disclose or suggest any arrangement meeting the above-mentioned features/limitations of Applicant's clarified claims.

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Regarding any alleged Admitted Prior Art, Applicant respectfully traverses, as set forth under a separate heading ahead.

In addition to the foregoing, the following additional remarks from Applicant's foreign representative are also submitted in support of traversal of the rejection and patentability of Applicant's claims.

Each independent claim has limited so as to divide each small area to clarify the difference point with references Samuels and Harvey. More particularly:

(1) The divided small areas include a cell area and a non-cell area (the area other than the cell) as described in lines 2-6 of page 30 and lines 17-19 of page 49 of the specification.

(2) In the non-cell area, the inspection parameter (condition) setting unit is set to an image acquisition condition which picks up a defect image and a reference image every time, and an inspection condition which extracts a defect by comparing the defect image with the reference image obtained by picking up every time as "reference-image detection mode". Further, in the cell area, the inspection parameter (condition) setting unit is set to an image acquisition condition which stores a reference image by picking up once and picks up a defect image in order, and an inspection condition which extracts a defect by comparing the defect image obtained in order with the same reference image stored as "reference-image reserve mode" as described in lines 2-16 of page 31 and lines 20 of page 49 to lines 2 of page 51 of the specification.

On the other hand, though the reference Samuels cited with the Office Action discloses to divide a inspection area into small areas as pointed out by the Examiner, Applicant respectfully submits that the reference of Samuels does not

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disclose to divide into any cell area and non-cell area (the area other than the cell area), and to execute the inspection by setting the "reference-image reserve mode" for the cell area and the "reference-image detection mode" that obtains the reference image every time for the non-cell area. Further, it is respectfully submitted that Samuels does not suggest them either.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

#### **SPECIFIC TRAVERSAL OF ALLEGED "ADMITTED PRIOR ART"**

Regarding any alleged "admitted prior art of the instant disclosure", traversal is appropriate. More particularly, Applicant has not made any admissions within the application. Applicant has disclosed several references, but such references are not necessarily prior art. Regarding whether or not such references are prior art under U.S. patent law, publication dates and teachings of such references themselves should be consulted by the Examiner to determine whether any such references represent published prior art. Beyond mention of such references, no other discussion of Applicant's specification should be construed as "admitted prior art", and instead, such discussion represents what was known to Applicant at a time of describing the invention, and not necessarily what was known by others in the art. Accordingly, reconsideration and withdrawal of any portions of the rejection based upon "admitted prior art", are respectfully requested.

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### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

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### CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 520.41089X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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